who can assist him in various ways, so that he will have no better chance than anybody else, but will be treated with exact, even-handed justice, and nothing more, just the same as the ordinary offender. And until you have that, you will have this popular outcry of the public—you will have this contempt for the administration of justice, which is the most destructive thing in the world to our American institutions. Certainly something should be done in the way of creating a sentiment that will prevent that sort of thing from being brought to pass. If it is necessary it should take the form of law, then some law should be established that will take the pardoning power away from the President, so that these men who are going unwhipped of justice shall not be allowed to stand before the public in such a way as to make a laughing stock of the administration of justice. Those cases string along—two of them from 1913 until 1918 before the men were committed at all. It seems to me these things are important for such bodies as the Institute of Criminal Law to consider, if you want an effective administration of justice in criminal matters.—Walter A. Knight, Cincinnati.

Criminal Responsibility of the Feeble-Minded.—Our views upon this question are naturally affected considerably by whatever theory we may happen to entertain of penal responsibility in general. Purely as an example, and if I were to adopt a working hypothesis, I would consider that of Iarde in his "Penal Philosophy" perhaps as good as any, and he founds it upon two propositions which he calls personal identity and social similarity. That is, that the act, together with all its pertinent features can be brought home to some definite personal identity and that that person possesses a sufficient amount of similarity in his mental constitution to compare with the mass of people in general. Now it is easily recognized, of course, that there are many conditions due to mental disease, where it would be the general or common sense verdict, that the individual in question, who had committed the unlawful act, by reason of mental disease did not have such attributes of mind as would correspond to that definition, or did not have a sufficient mental capacity so that we would say, under such a view that he should be held responsible. If the term is intended to include the class generally known as idiots and imbeciles, they have for long been taken into consideration, although it has been recognized that their mentality, or lack of it, is due to a defect rather than to a diseased condition. But I think it probable that the term feeble-minded ordinarily includes an additional class not included in the term idiots and imbeciles, but who, nevertheless, have a certain amount, varying amounts, of course, of mental defect; a class that sometimes has been called morons. Now, in the first place, it would seem to me that we have no different question here from the general question of irresponsibility due to the particular mental condition of the actor. In other words, what we have to determine is whether under the theory of responsibility that we adopt the individual has a mentality sufficient to satisfy that theory; whether his suspected defect may be due to disease or to congenital defect doesn't matter, and, of course, the difficulty arises entirely, it seems to me, with the application of our theory to the particular individual. For instance, if we adopt the legal

theory of responsibility as formulated by the committee of the Institute some years ago, which is in substance that the test to be applied is whether the individual had sufficient mentality so that at the time of the commission of the act he had the mental qualities or attributes which were essential constituents of that act, the inquiry would be, in regard to murder in the first degree, for example, as sometimes defined at least—was he capable mentally of forming the intent to kill? Was he capable of doing that wilfully? That is to say, was his mentality sufficient so that he had the power of volition, including in that probably, the ability to choose—the element of choice as a psychological element of the will in that sense? Did he have mentality sufficient to deliberate upon the act? I thoroughly agree with the conclusions of the committee that it is for the law to formulate the definition of responsibility or irresponsibility. I thoroughly agree with the formulation of it which they have made. I am inclined to think, however, that that is the law at present; that has been the law and I am not altogether sure that while that is a correct statement of the law, that even the enactment of it in statutory form would entirely solve the difficulty with which we are confronted. That is to say, it seems to me that although that has actually been the legal theory that there was a search made for tests which would enable the determination of whether that definition so laid down applied to the particular case in hand or not. And unfortunately some of the tests suggested, at least in some jurisdictions, have received a rather narrow construction and have been, so to speak, hardened and petrified until in those jurisdictions they are the only thing considered in formulating the legal definition of responsibility or irresponsibility. It seems to me that it is in that way that it has come about that there has been, perhaps, too large an emphasis on the test of ability to distinguish right and wrong, as Dr. Gordon has suggested, and too frequently that has been the sole test that has been applied by the trial court in the consideration of the question of the mental condition of the accused. In some jurisdictions, however, there has been, in addition to the right and wrong test, the test adopted as to whether the accused had a sufficient mental capacity so that he acted with volition, thus bringing in the element of choice. That is to say, it is sometimes put whether or not he acted under an irresistible impulse. This test has been expressly repudiated, as Dr. Gordon says, in some of the jurisdictions. It would seem, however, that that might and probably would, at least in many cases, be included in the condition which would be required under the definition suggested by the committee of the institute. For instance, in the crime of murder in the first degree under the statute, in defining it and using the word "wilful," as one of the elements in it, that would necessarily imply that the accused must appear to have mentality sufficient to exercise, not simply a violation to discharge a gun or to stab, or something of that kind, but also that he must have had the ability to choose between acting and not acting. So that it seems to me that so far as the feeble-minded are concerned, we have no different question presented from that with regard to the responsibility of the insane, but that the difficulty arises in applying our tests and in determining in the individual case whether or not responsibility exists. And it may be that even under this statute we may still be confronted more or less with this dilemma

that in attempting to apply the definition, in attempting to clear up the question in the particular case as to whether the accused is responsible or irresponsible, there may be the effort to obtain more definite tests, just as has occurred in the formulation of the right and wrong test. I should say this, however, that in very few jurisdictions, at least in this country, I think, is a right and wrong test applied quite as badly as that, and it is more generally broadened at some stage; as, for instance, in New York, in defining the nature and quality of the act that the accused must have mentality sufficient to fully appreciate the nature and quality of the act and know what was right and wrong.—Edward Lindsey.

The Sixteenth Annual Conference of the National Probation Association. —Providence, R. I., June 20-26, 1922:

HEADQUARTERS: BALL ROOM, PROVIDENCE-BILTMORE HOTEL

PROGRAM

First Session—Tuesday, June 20, 8:00-10:30 *P. M.*

1. "The State's Welcome."
   Hon. Harold J. Gross, Lieutenant Governor of Rhode Island.
2. "The City's Welcome."
   Hon. Joseph H. Gainor, Mayor of Providence.
3. "The Social Court as a Community Force."
   Address of the President, Hon. Charles L. Brown, President Judge, Municipal Court, Philadelphia.
4. "Psychology and Probation."
   Dr. Charles Platt, Honorary Vice-President, National Probation Association, Philadelphia.
5. "Child Study and the Prevention of Delinquency."
   Dr. Maximilian P. E. Groszmann, Director, National Association for the Study and Education of Exceptional Children, New York.

Second Session—Wednesday, June 21, 9:30-11:00 *A. M.*

Round Table Group Discussions

(A) Section on Women and Girls.

Symposium on Methods of Successful Probation and Parole Administration.

Chairman: Miss Franklin R. Wilson, Superintendent State Industrial Home for Women, Muncy, Pa.

Five-Minute Reports by the following members of the committee:

1. Mrs. H. O. Wittpenn, Deputy Chief Probation Officer, Hudson County, Hoboken, N. J.
2. Mrs. W. F. Dummer, Chicago.
3. Miss Sabina Marshall, Executive Secretary, Women's Protective Association, Cleveland.